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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,692	06/26/2003	Richard John Ogle	18382	9687
23556	7590	04/07/2006		EXAMINER
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,692	OGLE ET AL.	
	Examiner Carolyn T. Blake	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 23 is/are allowed.
- 6) Claim(s) 24-31 is/are rejected.
- 7) Claim(s) 32 and 33 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 January 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on January 11, 2006.
2. The objection to the drawings is withdrawn in view of the amendment.
3. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

4. Claim 33 is objected to because it depends from itself. Because it is unclear if this claim is independent or a dependent (and if it is a dependent claim, which claim it should probably depend from), claim 33 has not been examined on the merits.

Claim Rejections - 35 USC § 103

5. Claims 24, 25, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sablotsky et al (5,405,486) Menard et al (6,264,784) and Smith et al (6,736,182).

Sablotsky et al disclose a cutting method substantially as claimed, comprising: cutting an article web with a rotary cutter (36), wherein said rotary cutter (36) includes an axis of rotation and an outer peripheral, rim surface; a cutter array located on said rim surface, said cutter array having at least one cutter die (30), and said cutter die (30) having a die perimeter (32) and a die height; a resilient, primary insert (100) joined to said rotary cutter and located within said die perimeter (32) and operatively adjacent to said die perimeter, said primary insert (100) having an operatively high resistance to deformation.

Sablotsky et al disclose a multi-layered work piece, but fail to disclose the work piece as claimed. However, Menard et al disclose a cutting method comprising cutting an article web with a rotary cutter (33) wherein the article web comprises: a relatively low-toughness second component layer (6), which extends substantially continuously along a longitudinal direction; a substrate layer (7); a plurality of individual absorbent members (5) which have been positioned at spaced apart locations along said longitudinal direction and have been sandwiched between a first component layer (4) and said substrate layer (7); a first component layer (4); and a pattern of adhesive (2) that has been disturbed at least along a portion of a bonding region of the article web and between said first component layer (4) and said substrate layer (7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sablotsky et al method to employ a different work product, such as the one disclosed by Menard et al.

The Sablotsky-Menard combination still fails to expressly disclose the resilient insert is configured to create a perimeter bond. However, Smith et al teach the use of a resilient insert (46) in conjunction with a cutting member to seal an article from a web. The Smith et al method allows sealing and cutting operations to occur in one step and at one station. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Sablotsky-Menard resilient inserts for sealing, as disclosed by Smith et al, for the purpose of sealing and cutting in a single work station.

6. Claim 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Sablotsky et al in view of Menard and Smith et al, and further in view of Dayley (5,388,489).

The modified method of Sablotsky fails to disclose the insert has an annular configuration. Dayley teaches a method of cutting an article web wherein an annular primary insert (126) is employed in configuration with a different shaped work product. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the Sablotsky insert annular, as taught by Dayley, in order to create a work product with a different shape.

7. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sablotsky et al in view of Menard and Smith et al, and further in view of the following.

The modified method of Sablotsky fails to expressly disclose the Compression Deflection of the resilient primary insert. Choosing a material for the primary insert with a Compression of Deflection within the parameters claimed would have been obvious in order for the insert to properly compress during cutting. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a material with the Compression Deflection claimed since it has been held the selection of a material on the basis of suitability for the intended use is obvious. *In re Leshin*, 125 USPQ 416 (CCPA 1960).

8. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sablotsky et al in view of Menard and Smith et al, and further in view of the following.

The modified method of Sablotsky fails to expressly disclose a tensile strength of the second component layer as claimed. Choosing a material for the second component layer with a tensile strength within the parameters claimed would have been obvious in order to prevent tearing and create a clean cut during the cutting operation. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a second component layer with the tensile strength claimed since it has been held the selection of a material on the basis of suitability for the intended use is obvious. *In re Leshin*, 125 USPQ 416 (CCPA 1960).

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sablotsky et al in view of Menard and Smith et al, and further in view Van Iten et al (4,886,632).

The modified method of Sablotsky fails to expressly disclose the rotary cutter surface speed. However, Van Iten et al disclose a cutting method comprising cutting an article with a rotary cutter wherein cutter surface speeds greater than 195 cm/sec can be attained. See col. 9, lines 13-19. This speed allows for fast production of work products. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a rotary cutter surface speed of at least 195 cm/sec, as disclosed by Van Iten et al, with the modified Sablotsky method for the purpose of manufacturing large quantities of work products in a short amount of time.

Allowable Subject Matter

10. Claim 23 is allowed.

11. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments filed January 11, 2005 have been fully considered but they are not persuasive.

In view of the amended claims, the rejections based on Dayley have been withdrawn.

Applicant argues the combination of Sablotsky et al and Smith et al is improper. However, this combination was presented to show the resilient inserts of Sablotsky et al are capable of providing a seal. In the Smith et al device, resilient members are used to create a seal. Therefore, the Sablotsky et al inserts are configured to create a seal as claimed.

While the examiner agrees there are differences between Applicant's invention and the prior art of record, these differences have not been set forth in the claims rejected above.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 24, 2006

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